# TRADEMARK

25c. HIRES' IMPROVED 25c.
ROOT BEER!
IN LIQUID. NO BOILING OR STRAINING. EASILY MADE.
THIS PACKAGE MAKES FIVE GALLONS.
THE BEER made from it is not only a HEALTHY TEMPERANCE BEVERAGE but one of the m... pleasant and invigorating that can be found for the warm ... producing a gentle stimulation throughout the body, without the dele... of a momentary excitement. It is peculiarly efficacious in diseases ... impurities of the blood, and is highly recommended as a strengthen... drink. The low price at which it is offered, and the readiness with which the ... is prepared from it, render this PREPARATION ONE OF THE MOST POPULAR ARTICLES IN THE MARKET. It is made directly from fresh barks and roots.

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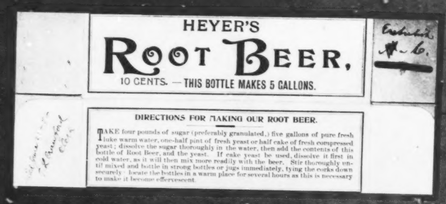
HEYER'S
ROOT BEER,
10 CENTS. — THIS BOTTLE MAKES 5 GALLONS.
DIRECTIONS FOR MAKING OUR ROOT BEER.
TAKE four pounds of sugar (preferably granulated,) five gallons of pure fresh ... lukewarm water, one-half pint of fresh yeast or half cake of fresh compressed ... yeast; dissolve the sugar thoroughly in the water, then add the contents of this ... bottle of Root Beer, and the yeast. If cake yeast be used, dissolve it first in ... cold water, as it will then mix more readily with the beer. Stir thoroughly en... til mixed and bottle in strong bottles or jugs immediately, tying the corks down ... securely; locate the bottles in a warm place for several hours as this is necessary ... to make it become effervescent.

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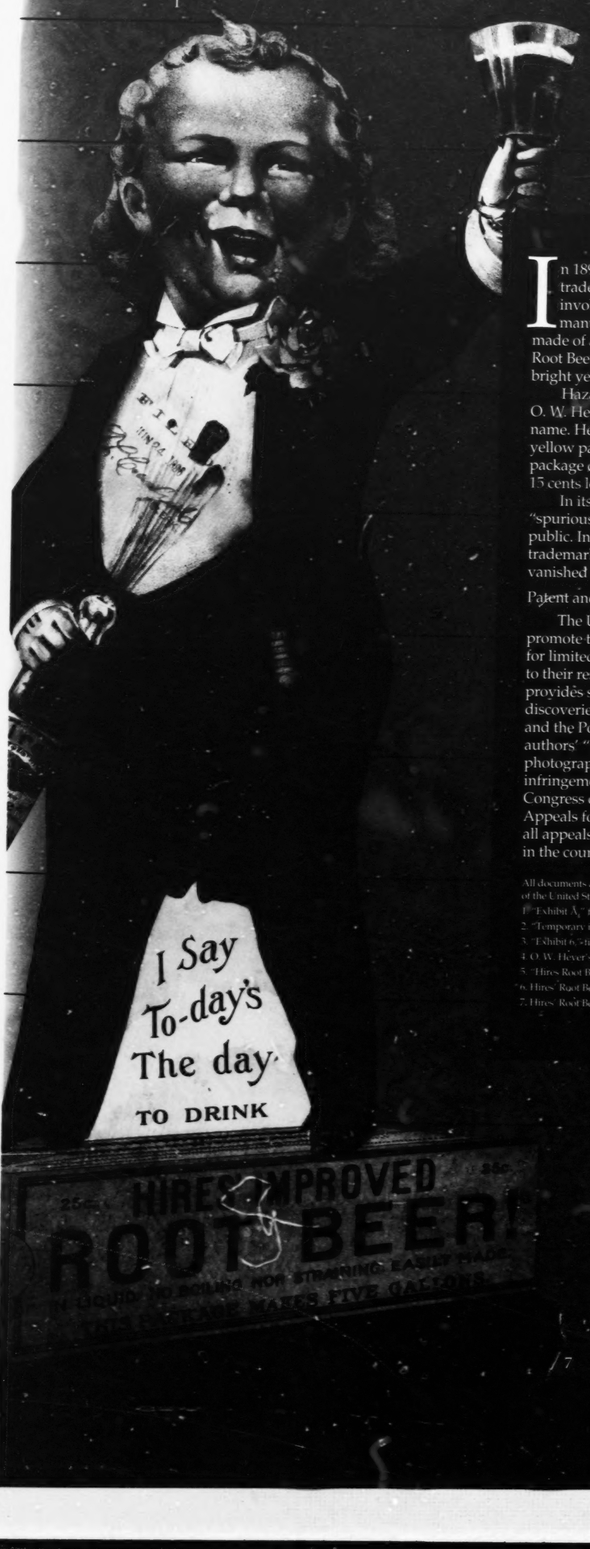


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In 1896 the Charles E. Hires Company sought relief from trademark infringement under Missouri law in federal court, invoking the court's diversity jurisdiction. The company manufactured root beer, a "Healthy Temperance Beverage" made of aromatic and medicinal roots. By the late 1800s Hires' Root Beer was recognized internationally by its distinctive, bright yellow package with black lettering and designs.

Hazards accompanied Hires' success. A St. Louis druggist, O. W. Heyer, took advantage of the opportunity presented by his name. He began marketing "Heyer's Root Beer" in a bright yellow package with black lettering. The remarkably familiar package did have one distinctive difference—a price of 10 cents, 15 cents less than Hires'.

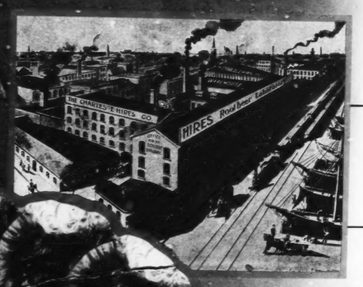
In its complaint, Hires called its rival an imitator whose "spurious, worthless, and inferior" product would confuse the public. In 1897 the judge's final decree barred Heyer from further trademark infringement, and "Heyer's Root Beer" quickly vanished from the marketplace.

## Patent and Copyright

The U.S. Constitution gives Congress the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." That clause provides separately for patent laws to protect inventors' discoveries, such as the Bell telephone, the Edison light bulb, and the Polaroid camera, and for copyright laws to protect authors' "writings," including not only books but also music, photographs, and other creative works. Patent and copyright infringement suits must be brought in federal court. In 1982 Congress created a national appellate court, the U.S. Court of Appeals for the Federal Circuit, with exclusive jurisdiction over all appeals in patent infringement cases brought anywhere in the country.

All documents are from the National Archives, Records of District Courts of the United States.

1. "Exhibit A," filed June 22, 1896.
2. "Temporary injunction, Filed June 26, 1896."
3. "Exhibit 6," filed June 22, 1896.
4. O. W. Heyer's answer to the bill of complaint, November 14, 1896.
5. "Hires Root Beer Laboratory, Exhibit #9, filed 12 16 '96."
6. Hires' Root Beer advertising art, filed June 24, 1896.
7. Hires' Root Beer advertising art, filed June 24, 1896.

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